

# Questions and Answers + Erratum

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This document includes the questions the FCH JU received from potential applicants and the answers so that all applicants have the same level of information.

The document will be regularly updated.

## **1. Erratum on calendar.**

There are two inconsistencies between the invitation to tender and the tender specifications

- The correct deadline for requesting additional information is the 25 November 2011
- The correct date for the opening committee is the 8 December 2011, 14:00

An erratum has been inserted into the tender specifications.

## **2.** The website listed in the invitation to tender: <http://www.fch-ju.eu/pages/vacancies-procurement> appears to not be working properly.

The documents are available at <http://www.fch-ju.eu/page/vacancies-procurement>. There is apparently a typo in the invitation to tender. We apologize for the inconvenience.

## **3.** Does Annex A: Model Framework Contract need to be included in the tender, or is it an example of the final contract? It is listed as a model but is not included in the Annex H checklist of documents to enclose in the tender. Please advise.

Annex A is an example of the final contract. It does not need to be included in the tender.

## **4.** Please confirm that the deadline for both the framework contract and the Phase A Bus Study is 2 December 2011.

We confirm that the deadline for both the framework contract and the Phase A Bus Study is 2 December 2011.

## **5.** The Tender Specifications state that the “tender must fulfil the criterion” (p24) of “owning offices in all key countries (Germany, UK, France, Italy, Scandinavian countries and Benelux)” (p25). Strict interpretation of this criterion would imply that tenderers who, for example, do not have an office in Scandinavia will be deemed not to have the “Technical and professional capacity” required to progress to the evaluation stage. How will this criterion be interpreted? Will tenderers who can demonstrate that they sufficiently cover the key countries, through, for example,

project experience, the citizenship of team members, and languages spoken, but do not “own” offices in each key country be disqualified based on the aforementioned clause?

Yes, the evaluation committee is entitled to disqualify a tender from an applicant that has no physical office in all the key countries.

However, the evaluation panel is very cautious before deciding to disqualify an applicant for not complying with the selection criteria. A tender cannot be disqualified for a reason that is not clearly and explicitly listed in the selection criteria. The doubt benefits to the applicant. To use your example, it is possible that the evaluation committee will decide not to disqualify a tenderer that has an office in all but one key country, and can demonstrate other forms of presence in that country. We can however not prejudge the opinion of the evaluation committee

Finally, the FCH JU also call your attention to the fact that, as indicated in Part One, sections 2.5 and 2.6 of the tender specifications, you may apply with partners either as in a consortium or as subcontractors. This can enable you to comply with the selection criteria.

**5. Erratum on Annex E Agreement / Power of Attorney (Only for Joint Tenders) :**

The form provided with the Invitation to Tender documents has the following clause: *“The FCH JU has awarded Framework Contract ... (« the Contract ») to Company names (« the Group Members »), based on the joint offer submitted by them on XX/XX/XXXX for the provision of services for financial audits and related services in the field of research grant agreements («the Services »).*

In this standard template, the description of the Services does not match with the work required in the Tender Specifications document. It would be more accurate to replace the description of services “services for financial audits and related services in the field of research grant agreements” by “Commercialisation studies”.

The template has been corrected.

6. There are some few clauses in the draft framework agreement attached to the invitation to tender which, in our opinion, need to be amended to balance the risks related to performing the requested services adequately, namely the unlimited liability clause. Would you have a concern with us submitting a proposal with alternative wording on such clauses ? Or do you expect tenders to sign the contract as attached to the invitation to tender.

The FCH JU is not allowed to modify this contract. For reasons of transparency and equality of treatment, it has to publish its contract in advance and use them with the selected contractor. For some provisions, the template contract includes options that can be discussed with the contractor but this is not the case for the liability provisions.

While the FCH JU can understand your prudence vis-à-vis this provision, we would like also to highlight that this provision is present in all procurement contracts signed the EU. If this clause did not prevent thousands of companies to answer to EU call for tenders, it would be a pity that your company renounce to apply.